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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,811	11/13/2003	John T. Keane	K0021.70002US00	8844
7590	03/16/2006			
David Wolf Wolf, Greenfield & Sacks, P.C. 600 Atlantic Avenue Boston, MA 02210			EXAMINER HENDERSON, MARK T	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 03/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/712,811

Applicant(s)

KEANE, JOHN T.

Examiner

Mark T. Henderson

Art Unit

3722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/6/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED OFFICE ACTION**

### **Faxing of Responses to Office Actions**

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing or responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers, which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the width" and "the thickness" in line 6; "the thickness" in line 7; "the major length" in line 10; "the major portion" in line 11; and "the back" in line 12.

There is insufficient antecedent basis for this limitation in the claim.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims, 1-4, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Labin (GB-518,849) in view of Proffit (6,360,890).

Labin discloses in Fig. 2, 4 and 7, a record binder comprising a front panel (A1), a back panel (A2), an intermediate spine (A3) formed of a uniformly single piece of plastic (Page 2,, Col. 2, lines 108-114) material; the width of the spine defining the thickness of the binder; a holder substantial coextensive with the length of the spine; wherein the holder comprises an elongated member (B and C) with a back (C) and a loop (E) defined from one another by a line extending lengthwise (as seen in Fig. 2 and 4); the loop (E) defining an elongated opening extending the major length of the holder (as seen in Fig. 2) and a width extending laterally the major portion of the loop and a means (6, rivets) securing the back (C) to the spine (A3); a multi-page folder (F) positioned with pages on either side of the elongated member and secured by engagement within the loop.

However, Labin does not disclose: the spine defined by spaced parallel segments of reduced thickness to define a hinge.

Profitt discloses in Fig. 5 and in Attachment I, a binder having a spine (16) defined by parallel segments (S1 and S2) of reduced thickness to define a hinge,

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Labin's binder with a spine defined by parallel segments having reduced thickness as taught by Proffit for providing a spine defined by hinges.

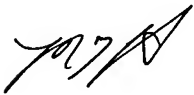
In regards to Claim 1, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the holder out any desirable durable flexible material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. Therefore, it would have been obvious to construct the holder with any desired material, since applicant has not disclosed in the specification or drawings the criticality of using a particular material, and invention would function equally as well with any desired material.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ong, Tarnaud, Shugart, Duggan, Shafer, Morris, Mayer et al, Frosig et al, Hunt et al, Langhorst, Seaborn, Ballantine, and Large et al disclose similar binders.

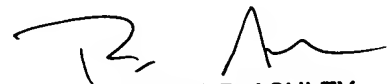
**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571) 272-4477, and informal fax number is (571) 273-4477. The examiner can be reached on Monday-Friday from 9:00AM to 3:45PM. If attempts to reach the examiner by telephone are unsuccessful, the Examiner Supervisor, Boyer Ashley, can be reached at (571) 272-4502. The formal fax number for TC 3700 is (571) 273-8300.



MTH

March 14, 2006



BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER